

KAVN200003092018



**IN THE COURT OF THE SENIOR CIVIL JUDGE &  
MACT V, KUDLIGI**

**PRESENT: SRI. YOGESHA. J., B.A., LL.B.,  
Senior Civil Judge & Member, MACT V, Kudligi.**

**Dated this the 09<sup>th</sup> day of April, 2025**

**M.V.C. No. 447/2018**

**CLAIMANT**

1) Ramesh @ Rangaswamy,  
S/o Rangappa @ Rangaswamy,  
Aged 18 years, Agriculturist,  
R/o S. Imadaplura Village,  
Kudligi Taluk, Ballari District.

(By Sri. S. Mallikarjuna, Adv.)

**V/s**

**RESPONDENTS**

1) Karibasappa,  
So Veeranna,  
Aged 32 years, Driver,  
Maxi Truck Reg. No. KA-35-B-4904,  
R/o Kottur Town and Taluk,  
Ballari District.

2) Nagarajappa.C.,  
S/o Obaiah, Aged 56 years,  
Owner, Maxi Truck Reg No. KA-35-B-4904,  
R/o 3<sup>rd</sup> Ward, Chorunuru Village,  
Sandur Town and Taluk,  
Ballari District.

3) The Manager,  
Tata AIG General Insurance Company Ltd.,  
by its Divisional Office, Station road, Hosapete,  
Ballari District.

(R-1 and 2 by Sri. C.V.P., Advocate)  
(R-3 by Sri. J.K.G., Adv.)

### **JUDGMENT**

Claimant has filed this claim petition under Section 166 of The Motor Vehicles Act, against the respondents seeking compensation of Rs.10,00,000/- for the injuries sustained by minor petitioner by him in the RTA dated 11.04.2016.

2. Petition averments in brief is that on 11.04.2016 at about 5.15 p.m. near the land of

Yajamanappa, on C.J. Halli road, of Khanahosahalli, when minor petitioner along with Mahesh were riding Bicycle at that point of time, the respondent No.1 being the driver of Maxi Truck bearing its Reg. No. KA-35-B-4904 came from M.B. Ayanahalli side in high speed, with rash and negligent manner and dashed to the minor petitioner cycle from backside as such the minor petitioner fell down and sustained injuries ie., a fresh irregular open wound over the right partial region measuring 8 c.m. X 1 c.m. depth 1 c.m. width a fresh abraded wound over the shoulder right would aspect and fresh bleeding from nose and other bleeding injuries on all over the body. Soon after the accident, minor petitioner shifted to Government General Hospital, C.J. Halli and thereafter shifted to Government Hospital, Jagalur and C.J. Hospital, Davanagere. Further the said petitioner shifted to S.S. Hospital, Davanagere for higher treatment and incurred Rs.2,00,000/- as medical expenses. Even now, he is under medical

care. A case in Cr. No. 81/2016 was registered by the Hosahalli Police for the offences punishable U/s 279, 337 and 338 of IPC. Respondents No.1 was the driver. The respondent No.1 is the driver, respondent No.2 was owner and respondent No.3 being the insurer of the offending Maxi truck bearing Reg. No. KA-35-B-4904 and the Policy was in force at the time of the accident. The minor petitioner was aged 13 years and a student due to the accident he has lost memory concentration thinking and reasoning and he is not in a position to concentrate towards his studies and his future prospectus has blurred. As the accident was caused by the respondent No.1 to 3 are liable to pay the compensation as prayed for.

3. Respondent No.3 in its written statement contended that the vehicle was not insured with it and the Insurance Policy bearing No. 015513012101 from 02.02.2016 to 01.02.2017 and the liability of this respondent if any is subject to the terms and

conditions of the Policy. The respondent No.1 was not holding valid and effective driving licence at the time of the accident. Even R.C. and F.C. of the vehicle is also denied by this respondent. Age, name address, occupation, income are all denied. Compensation and interest claimed by the claimant is on the higher side. On these grounds, prayed to dismiss the petition.

4. The respondents No.1 and 2 in spite service of summons, have appeared through their counsel, but they have not filed their written statement.

5. Based on the pleadings, following issues are framed for consideration.

### **ISSUES**

- 1) *Whether the claimant proves that, on 11.04.2016 at about 5.15 p.m., when the minor petitioner and Mahesh were riding bicycle by the left side of the CJ. Halli road, the first respondent being the driver of the Maxi Truck bearing its Reg.*

*No. KA-35-B-4904, drove the same at high speed, and in a rash and negligent manner, endangering human life and dashed against the bicycle from behind near the Swamy Vivekananda School, due to which the minor petitioner sustained grievous injuries on account of actionable negligence on the part of respondent No.1?*

- 2) Whether respondent No.3 proves that the respondent No.1 was not possessing valid driving licence to drive the offending vehicle as on the date of the accident?*
- 3) Whether respondent No.3 proves that respondent No.1 and 2 violated the policy and permit conditions?*
- 4) Whether the claimant is entitled to the compensation claimed? If so, what is the quantum and from whom.?*
- 5) What Order or Award?*

6. In order to prove the case, the guardians of the claimant is examined as PW-1 and 2 and got

marked the documents Ex.P-1 to 12. Thereafter, the claimant himself examined as PW-3. The Doctor is examined as PW-4 and Disability certificate is marked as Ex.P-53. The respondent No.3 has not examined any witnesses in spite of affording sufficient opportunities. On 31.01.2024 the evidence of respondent No.3 is taken as Nil.

7. Heard the learned counsel appearing for the parties and perused the entire records.

8. Under the circumstances, the issues framed for consideration are answered as under;

- ISSUE No. 1 : In the Affirmative
- ISSUE No. 2 : In the Negative
- ISSUE No. 3 : In the Negative
- ISSUE No. 4 : Partly in the Affirmative
- ISSUE No. 5 : As per the final order,  
for the following:

**REASONS**

9. **ISSUE No. 1**:- Burden of proving the occurrence of the accident, act of negligence on the part of the respondent No.1 and that minor claimant Ramesh @ Rangaswamy S/o Rangappa @ Rangaswamy sustained injuries as pleaded in the petition, is on the claimant himself. P.W-1 by filing affidavit in lieu of examination-in-chief, has reiterated the petition averments regarding occurrence of the accident dated 11.04.016, negligent act of the respondent No.1 and injuries sustained by the minor petitioner in the alleged accident.

10. P.W-1 has produced the documents such as certified copies of the FIR, Complaint, Spot Mahazar, IMV Report, Statements, Wound Certificates Charge sheet, order sheet in C.C. NO. 785/2016 as per Ex's.P-1 to P-12. Perusal of the

Ex.P-2 discloses that based on the information furnished by one Balaraja S/o Basappa Hosahalli Police have registered case in Crime No.81/2016 against the respondent No.1 for the offences punishable under Section 279, 337 of IPC and Sec. 183 of IMV Act. After the investigation, Final Report was filed against him for the offences punishable U/s 279, 337, 338 of IPC and Sec. 183 of IMV Act. Wound certificate Ex.P-8 discloses that minor claimant has sustained injuries in the said accident. Ex. P-10, MVAR discloses involvement of the vehicle i.e., MAXI Truck bearing its Reg. No. KA-35-b-4904 and inspection of the same by the IMV Inspector.

11. As observed above, respondent No.3 has filed written statement, wherein it has not specifically denied the occurrence of the accident but raised other contentions regarding its liability, that the respondent No.1 was not possessing valid driving licence etc., and also contributory negligence on the

part of the minor at the relevant point of time. In the cross-examination of the P.W-1 to 3, nothing worth is elicited to disbelieve their evidence regarding occurrence of the accident and injuries sustained by PW-3 minor. P.W-3 denied the suggestion that the accident took place due to the negligence act of the minor child. Hence, taking into consideration of the fact that jurisdictional Police have filed the Final Report against the respondent No.1 for causing the accident, coupled with the oral and documentary evidence adduced by the P.W-1 to 3, this Tribunal is of the opinion that much deliberation is not necessary as to the occurrence of the accident, involvement of the vehicle and the injuries sustained by the claimant in the said accident.

12. Now, it is necessary to examine whether the accident in question was caused by the negligent act of the respondent No.1 herein or not. As observed above, jurisdictional Police have filed the Final

Report as per Ex.P-11 against the respondent No.1 for the offences punishable U/s 279, 338 and 338 of IPC and Sec. 183 of IMV Act Further Ex.P-12 certified copy of the order sheet in C.C. No. 785/2016 reveals that the accused pleaded guilty and paid fine.

13. Final report and order sheet in C.C. NO. 785/2016 reveals that as the respondent No.1 drove the Maxi Truck in rash and negligent manner and dashed to the Motorcycle in which the minor claimant sustained injuries, as such accident took place and thereby claimant sustained injuries. Respondent No.1 and 2 have failed to contest the petition by filing his written statement and adducing evidence to deny the allegation of rash and negligent driving of the Maxi Truck by him belonging to the respondent No.2. Hence, having regard to the fact that Jurisdictional Police have filed the Final Report against the respondent No.1 and that there is

nothing on record to disbelieve the oral and documentary evidence available on record, this Tribunal is of the opinion that claimant has proved the issue No.1 framed for consideration. Accordingly, issue No.1 is answered in the affirmative.

14. **ISSUE No. 2 and 3:-** Respondent No.2 has contended that respondent No.1 was not possessing valid driving licence to drive the Maxi Truck and the respondents No.1 and 2 have violated the terms and conditions of the Policy. Claimant has denied these contentions. Jurisdictional Police have not filed the final report against the respondent No.1 that he was not possessing valid driving licence to drive the particular category of the vehicle at the time of the accident and violation of terms and conditions of the Policy. If really he was not having valid driving licence, the Investigating Officer ought to have filed the final report against him in this regard. Further, respondent No.3 failed to adduce its evidence in this regard. Hence, this Tribunal is of the opinion that respondent No.3 has failed to prove its

contention. Accordingly, these issues are answered in the negative.

15. **ISSUE No. 4:-** It is claimed that in the accident this minor claimant sustained grievous injuries. As could be seen from the certified copy of the wound certificate Ex. P-8, claimant had sustained the following injuries;

- 1) *A fresh irregular wound over the right partial region measuring 8 c.m., length X 1 c.m. depth and 1 c.m. width.*
- 2) *A fresh ab-rated wound over the shoulder right region aspect.*
- 3) *Fresh bleeding from nose and other bleeding injuries n all over the body.*

16. It is stated that the injury No.1 is grievous in nature and injury No.2 and 3 are simple in nature. It is pleaded that immediately after the accident, he was shifted to Government Hospital, C.J. Halli, thereafter shifted to Government Hospital, Jagalur and again shifted to C.J. Hospital, Davanagere After that, he shifted to SS-MS Hospital, Davanagere for further treatment. Medical Prescriptions, medical bills, are produced to substantiate

her assertion regarding injuries and regarding treatment taken by him in the said Hospitals.

**17. QUANTUM OF COMPENSATION ; As per the petition the petitioner was 13 years old as on the date of accident. The petitioner has claimed compensation under following heads :-**

i). **LOSS OF FUTURE EARNING :-** It is specific case of petitioner that, prior to accident he was quite hale and healthy and aged about 13 years and as studying in 8<sup>th</sup> standard. He was assisting to his parents before going to school and after coming from the school. He was quite hale and healthy. Due to the unfortunate accident, he has lost his memory, concentration, thinking and reasonings and he is not in a position to concentrate towards his studies and his future prospectus has been blurred. The minor petitioner has to suffer the above said sufferings without there being any fault of him. The pain and sufferings of the minor petitioner as well as the parents cannot be explained in terms of pleadings. The minor petitioner having bright future and the parents are dreaming of his son. Ex.P-8 wound certificate issued by the Doctor, wherein the injury

No.1 is grievous in nature and injuries No.2 and 3 are simple in nature. Though the petitioner has produced Ex.P-53 disability certificate issued by the Doctor Mahanthappa Hulageri and even he examined as PW-4, wherein he pinned that on scrutinizing the CT Scan report right parietal bone # C EDH/LW/ over parietal region. Bleeding from nose. He has treated with craniectomy and elevation of depressed #. He has under regular check up in his OPD and opined that he is unable to do activities due to which the minor petitioner has a 25-30% disability. To the particular part of head. The medical bills and prescriptions produced by minor guardian father as per Ex.P-13 to 52, discharge summary FROM SS-MS Hospital, Davanagere shows that he has undergone treatment. However looking to the nature of injury it cannot be said that the child / petitioner has not suffered from any future disability and it will not affect his future earning capacity. Hence the Doctor has issued 25 to 30% disability to the particular limb. If the said 25% of disability is to a particular limb, to the whole body it is to be divided by 1/3. The minor petitioner suffers whole body disability to 9%. Hence, 9% is considered as whole body disability.

ii) Further, as per the Notification issued by the Ministry of Social Justice and Empowerment, New Delhi dt: 04.01.2018 the total disability is only 9%. So the disablement is below 10%.

iii) Further as per case law of **Master Mallikarjun Vs. Divisional Manager National Insurance company limited and another** the Hon'ble Supreme Court has held thus :

*12. Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all the heads in addition to the actual expenditure for treatment, attendance, etc., should be, if the disability is above 10 % and up to 30% to whole body. Rs. 3 lakhs upto 60 %, Rs. 4 lakhs ; upto 90%, Rs. 5 lakhs and above 90 %, it should be Rs. 6 lakhs. For permanent disability up to 10 %, it should be Rs. 1, lakh, unless there are exceptional circumstances to take different yardstick.*

Thus in view of aforesaid case law in present case also the minor petitioner may be held entitled for Rs. 1,00,000/- towards loss of her future earnings.

18. **NOURISHMENT AND ATTENDANCE CHARGES:**

The petitioner has undergone medical treatment at Government General Hospital, C.J. Halli, thereafter shifted to Government Hospital, Jagalur and again shifted to C.J. Hospital, Davanagere and also shifted to SS-MS Hospital, Davanagere for better treatment it can be assessed that he was bedridden for minimum two months after the accident. Hence looking to the facts and circumstances of the case, the petitioner may be awarded Rs.20,000/- towards nourishment and attendance charges.

19. **PAIN AND SUFFERING** : It is proved by the petitioner that, he sustained grievous injury as a result of accident and he also under went medical treatment, which made his parents spend huge amount of money. Hence there is no doubt that the petitioner has underwent and experienced pain and suffering at the time of accident and during follow up treatment. Considering the pain and agony undergone by him after the accident, I am of the opinion

that ends of justice would meet if the petitioner is awarded Rs.20,000/- towards pain and suffering.

20. **LOSS DURING LAID UP PERIOD** : As already stated above, it can be assessed that petitioner was bedridden for 2 months as a result of injury sustained and for its follow-up treatment. Hence taking his minimum average income of Rs. 6,000/- per month, he may be awarded Rs.12,000/- as loss during laid up period of 2 months.

21. **MEDICAL EXPENSES** ;- The petitioner has produced several prescriptions and medical bills as per Ex.P.13 to 52. On considering Ex.P-13 to 52 medical bills, it is noticed that they were obtained during his treatment from the date of accident. The total bill amount is Rs. 36,790/-. Hence petitioner may also be awarded Rs. 36,790/- towards medical expenses incurred by him due to injuries sustained in the accident. As no documents whatsoever are put forth by the petitioner to show that he requires further treatment, he is not entitled for compensation under any other heads. Thus petitioner is entitled for compensation as under:

22. Thus petitioner is entitled for compensation as under:

1	Loss of future earnings	Rs. 1,00,000/-
2	Towards nourishment & attendance charges	Rs.20,000/-
3	Towards pain and suffering	Rs.20,000/-
4	Loss during laid up period	Rs.12,000/-
5	Towards Medical expenses	Rs.36,790/-
	<b>TOTAL COMPENSATION</b>	<b>Rs.1,88,790/-</b>

Accordingly, it is held that claimant is entitled to compensation of Rs. 1,88,790/- only. Hence, this issue is answered partly in the Affirmative.

23. **INTEREST**:- Petitioner has claimed compensation with interest at the rate of 12% per annum. While awarding compensation, it should be seen that compensation amount should carry reasonable rate of interest considering the rapid loss in the value of money due to inflation and market situation. In the decision of Hon'ble Supreme Court rendered in Sarla Varma and others Versus Delhi Transport Corporation reported in (2009) 6 SCC 121, the Hon'ble Supreme Court has awarded 6% interest per annum to the appellant. Considering the prevailing market situation, it

appears to be just and proper to award interest at the rate of 6% per annum on above compensation amount.

24. **LIABILITY:-** Respondent No.2 is the owner and respondent No.3 is the insurer of the Maxi Truck bearing Reg.No KA 35/B-4904. Respondent No.3 being the insurer of offending vehicle is liable to indemnify the R.C. owner. The respondent No.3 has admitted policy coverage of offending vehicle. For these reasons, respondent No.3 is liable to pay aforesaid compensation awarded to the petitioner.

25. **ISSUE No.5 :** In view of my findings on the above issues and the discussions made thereon, I proceed to pass the following :-

**ORDER**

Claim Petition is hereby allowed in part with costs.

Claimant is entitle to total compensation of Rs. 1,88,790/- with costs and future interest at the rate of 6%

p.a. from the date of the petition till realization.

The respondents No.2 and 3 are held jointly and severally liable to pay the aforesaid compensation amount to the claimant.

The respondent No. 3 being the insurer is directed to deposit the entire compensation amount with interest before this Tribunal within one month from the date of this order.

After depositing the compensation, claimant is permitted to withdraw 60% of the compensation and balance 40% be invested in F.D's in the name of minor petitioner for a period of 5 years in any nationalized Banks.

Advocate's fee is fixed at Rs. 1,000/-.

Draw award accordingly.

(Dictated to the Stenographer directly on computer, computerized by him, corrected, print out taken and signed by me and then pronounced in the open court on this 09<sup>th</sup> day of April, 2026)

**(YOGESHA. J)**  
**Senior Civil Judge -**  
**cum Member, MACT-**  
**V, Kudligi**

**ANNEXURE**

**LIST OF WITNESS EXAMINED FOR PETITIONER**

P.W-1 : Rangappa @ Rangaswamy  
P.W-2 : Bhagyamma W/o Rangappa  
P.W-3 : Ramesh @ Rangaswamy  
P.W-4 : Dr. Mahanthappa.H

**LIST OF DOCUMENTS MARKED FOR PETITIONER**

Ex.P-1 : C.C. of FIR  
Ex.P-2 : C.C. of Complaint  
Ex.P-3 : C.C. of Spot mahazar  
Ex.P-4 to 7 : C.C. of Statements  
Ex.P-8 & 9 : C.C. of Wound Certificates

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- Ex.P-10 : C.C. of IMV Report  
Ex.P-11 : C.C of Final report  
Ex.P-12 : C.C. of order sheet  
Ex.P-13 to 52 : Discharge summary, Medical Bills and prescriptions  
Ex.P-53 : Disability certificate

**LIST OF WITNESSES EXAMINED FOR RESPONDENTS**

-NIL-

**LIST OF DOCUMENTS EXAMINED FOR RESPONDENTS**

-Nil-

**(YOGESHA. J.)  
Senior Civil Judge-cum Member,  
MACT-V, Kudligi**

(Order pronounced in the open Court)  
(Vide separate Judgment)

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**(YOGESHA. J)**  
**Senior Civil Judge –**  
**cum Member, MACT-**  
**V, Kudligi**